THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION Nos. 19408,19409 and 19410 of 2006

Dated: 20-09-2006

Between:

SMT. D. Roji Mary and others

.... PETITIONERS

AND

The Government of A.P., Revenue Department, Hyderabad and others.

.

.... RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION Nos. 19408,19409 and 19410 of 2006

COMMON ORDER:

In these three writ petitions, the proceedings dated 8.9.2006 issued by the 4th respondent under Section 6 of the Andhra Pradesh Land Encroachment Act, 1905 ('the Act', for brevity) are assailed. The proceedings issued separately to each of the petitioners read as under.

PROCEEDINGS OF THE MANDAL REVENUE OFFICER
MARREDPALLY.
PRESENT : SRI U. Raghu Ram Sharma

PRCEE
NO.B/648/2003
Dated 8-9-2006

Sub: Land-Hyderabad Dist.- Regularisation of House Plot bearing No. 10-3-154/D,E,B&C in Sy. No.77, East Marredpally in Secunderabad in favour of Smt Roji Mary – Reg.

Ref: Collector Lr No R2/5150/2003, dated 4.8.2006.

* * *

ORDER:

In this case action has been initiated under A.P. Land Encroachment Act, 1905 for eviction of Smt. Roji Mary, to request for regularization has been rejected by the District Level Committee on the ground that the land has been classified as graveyard and that the encroachment is an objectionable one.

In reply to the show cause notice issued under Section (7) of APLE Act the encroacher has submitted a representation stating that she approached the Hon'ble Chief Minister requesting for re-enquiry and that it was forwarded to CCLA Hyderabad for enquiry and report. Further she requested to wait till such time and desist from proceeding further for eviction. A letter has been addressed to the Collector mentioning the above facts, vide this office Lr No B/648/2003 date 13.9.2005 and south for instructions. However Collector vide reference No R2/5150/2003 date 4.8.2006 directed to resume the land by evicting the above encroacher. Hence suit she is liable for eviction by duly serving notice under Section (6) of APLE Act-1905.

The Dy. Mandal Revenue Officer is directed to take over the possession of the land by serving notice under Section (6) of the Act and report compliance.

Yours faithfully

MANDAL REVENUE OFFICER
MARREDPALLY MANDAL

The brief fact of the matter is as follows. The land admeasuring an extent of Acs.2.20 guntas situated at Survey Number 77, East Marredpally, Secunderabad, originally belong to one Fareed Jehan Begum, W/o. late Nawab Zaheer Yar Jung. She allegedly gifted the property to Saint John School Committee under a Gift Deed dated, 6.7.1963. The petitioners allege that they along with other families were serving the Saint John School Committee in the Church School and were protecting the land. In recognition of the same, the Church Committee, allegedly executed Gift Deeds on 4.7.1967 in their favour in respect of lands admeasuring from 296 square meters to 387 square meters. The petitioners are allegedly in possession of the property and paying municipal taxes to Municipal Corporation of Hyderabad. Having come to know that the property in Survey Number 77 is registered in the Revenue Records as Government Grave yard, the petitioners made applications under relevant Government Orders seeking regularization of their occupation. The District Collector considered these applications and passed orders in January, 2005 rejecting regularization. The petitioners statedly approached the 2nd respondent for further redressal. In the meanwhile, the 4th respondent initiated action under the Act and issued notices under Section 7 of the Act on 19.8.2005. The petitioners submitted explanation *inter alia* contending that even if the land is classified as grave yard, there are no graves existing at any point of time and sought for dropping the action by the 4th respondent. After

considering the same, the impugned order is passed.

The learned counsel for the petitioners points out that Section 6 of the Act confers powers on the 4th respondent to take independent decision as to whether the encroachment made by a person is objectionable or not. In this case, the 4th respondent passed orders under the dictates of the 2nd respondent. A perusal of the impugned order would amply support the contention. This is also not denied by the learned Assistant Government Pleader for Revenue.

Therefore, on the limited ground as indicated hereinabove, these writ petitions are disposed of duly setting aside the impugned proceedings of the Mandal Revenue Officer, Marredpally Mandal, Hyderabad. It shall be open to the 4th respondent to issue fresh notices under Section 7 of the Act, inspect the land and consider the question whether occupation by the petitioners is objectionable and/or not. This exercise shall be completed by the 4th respondent within a period of eight weeks from today. It shall be open to the petitioners to place all the material before the Mandal Revenue Officer, if not already placed. Till this exercise would be completed, there shall be status-quo.

The writ petitions are accordingly disposed of. No costs.

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(V.V.S. RAO,J)

20th September, 2006

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